

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 37100

STATE OF IDAHO,)	2010 Unpublished Opinion No. 588
)	
Plaintiff-Respondent,)	Filed: August 11, 2010
)	
v.)	Stephen W. Kenyon, Clerk
)	
BOYD F. GIANNINI, SR.,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Seventh Judicial District, State of Idaho, Bingham County. Hon. Darren B. Simpson, District Judge.

Order denying I.C.R. 35 motion for reduction of sentence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Heather M. Carlson, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before LANSING, Chief Judge; GUTIERREZ, Judge;
and MELANSON, Judge

PER CURIAM

Boyd F. Giannini, Sr. pled guilty to one count of issuing an insufficient funds check. I.C. § 18-3601(b). In exchange for his guilty plea, additional charges were dismissed. The district court sentenced Giannini to an indeterminate term of three years, to run concurrent with an unrelated sentence. Giannini filed an I.C.R. 35 motion, which the district court denied. Giannini appeals.

A motion for reduction of sentence under I.C.R. 35 is essentially a plea for leniency, addressed to the sound discretion of the court. *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d 23, 24 (2006); *State v. Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989). In presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of new or additional information subsequently provided to the district court in support of the

motion. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007). Upon review of the record, including the new information submitted with Giannini's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Giannini's Rule 35 motion is affirmed.